

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

04-CR-6164L

V.

ALLEN ABNEY,

Defendant.

This Court referred pretrial motions in this case to United States Magistrate Judge Marian W. Payson pursuant to 28 U.S.C. § 636(b). Defendant filed a motion to dismiss the indictment and Magistrate Judge Payson, after hearing argument, recommended from the bench that the defendant's motion be denied. That finding was memorialized in an order that same day (Dkt. #92). Defendant did not file any objections to the Magistrate Judge Payson's Report and Recommendation.

Therefore, I concur with Magistrate Judge Payson's Report and Recommendation, and I deny defendant's motion to dismiss (Dkt. #48) in all respects.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
December 20, 2005.

